

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i> David A. Cole)	
Ward 96, Block 514, Parcel D7C)	
Residential Property)	Shelby County
Tax year 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization ("county board") has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$63,800	\$214,900	\$278,700	\$69,675

On February 14, 2006, the State Board of Equalization ("State Board") received an appeal by the property owner.¹

The undersigned administrative judge conducted a hearing of this matter on April 4, 2006 in Memphis. The appellant, David A. Cole, represented himself at the hearing. Staff appraiser Chris Kirby appeared on behalf of the Shelby County Assessor of Property.

Findings of Fact and Conclusions of Law

The 0.87-acre parcel in question is located at 1864 Steeplebrook cove, in an area that was recently annexed by the city of Memphis. Situated on this lot is a 3,242-square-foot house that was built in 1992. Its exterior consists of a combination of brick veneer and synthetic stucco (dryvit).

For a two-year period ending in the fall of 2005, Mr. Cole offered this home "for sale by owner." He attributed his lack of success to the widely-publicized problems associated with synthetic stucco, as well as to the higher real estate taxes resulting from the annexation. The appellant believed the market value of the subject property as of the January 1, 2005 county-wide reappraisal date to be \$248,000. That, he explained, was the amount for which a very similar house at 1810 Wood Oak Drive had sold in December of 2004.

The Assessor's representative acknowledged the negative impact of the factors cited by Mr. Cole. In Mr. Kirby's view, however, the neighborhood had "somewhat stabilized" since the time of the annexation. Concerning the appellant's Wood Oak Drive comparable, Mr. Kirby

¹The taxpayer made timely petitioned the county board of equalization for review of the assessment pursuant to Tenn. Code Ann. section 67-5-1407. Dissatisfied with the value recommended by the hearing officer to whom his complaint was assigned, Mr. Cole requested a hearing before the full county board. Unfortunately, due to a family-related emergency, he was unable to attend the scheduled hearing on January 3, 2006; and the disputed value was affirmed. Under these circumstances, the State Board may accept and act on the taxpayer's appeal. See Tenn. Code Ann. section 67-5-1412(e).

observed that the grantor was a mortgage-lending institution – indicative of a foreclosure sale. Earlier in 2004, he pointed out, that home had reportedly sold for \$258,937 (or approximately \$83.25 per square foot). Of the five properties selected in his market analysis, Mr. Kirby emphasized the sale of a brick veneer/synthetic stucco home at 1976 Woodchase Cove on October 9, 2003 for \$292,000. None of the Assessor's other comparables featured that type of construction.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

Since the taxpayer seeks to change the present valuation of the subject property, he has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

At first blush, the 2003 sale of 1976 Woodchase Cove seems to provide adequate support for the value determined by the county board. But according to the appellant's unrefuted testimony, that home had been significantly enhanced before the closing of the transaction by elaborate landscaping, fencing, and other amenities not found on his property. In the opinion of the administrative judge, then, the amount paid for 1810 Wood Oak Drive on June 6, 2004 (\$83.25 per square foot) – prior to the apparent forced sale later that year – constitutes the most reliable indicator of the value of the subject property as of January 1, 2005. The resulting appraisal is \$270,000 (after rounding).

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$63,800	\$206,200	\$270,000	\$67,500

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order";** or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The

petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of April, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: David A. Cole
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office
Rita Clark, Assessor of Property

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